

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
STEPHEN BAIN,

Plaintiff,  
-against-

**INITIAL DISCOVERY**  
**FRCP 26(a)(1)**  
07 CIV 8021 (VM)

THE CITY OF NEW YORK, THE NEW  
YORK CITY POLICE DEPARTMENT,  
METROPOLITAN TRANSPORTATION  
AUTHORITY, METROPOLITAN  
TRANSPORTATION POLICE DEPARTMENT,  
LONG ISLAND RAILROAD d/b/a  
MTA LONG ISLAND RAILROAD,  
LONG ISLAND RAILROAD POLICE  
DEPARTMENT, PO ROBERT  
ARONSON - shield 02300, PO DANIEL  
MCDADE - shield 2020, and "JOHN DOES"  
(names not known and fictitious)- POLICE  
OFFICER,

Defendants.

-----X

Defendants, METROPOLITAN TRANSPORTATION AUTHORITY,  
METROPOLITAN TRANSPORTATION AUTHORITY POLICE DEPARTMENT, LONG  
ISLAND RAILROAD d/b/a MTA LONG ISLAND RAILROAD, LONG ISLAND  
RAILROAD POLICE DEPARTMENT, PO ROBERT ARONSON - shield 02300, PO  
DANIEL MCDADE - shield 2020, and "JOHN DOES" (names not known and fictitious) -  
Police Officers by attorneys, LEWIS JOHS AVALLONE AVILES, LLP., as and for their  
Initial Discovery Demand Pursuant to Federal Rules of Civil Procedure§26(a)(1) as follows:

(A) Witnesses

MTA Police Officer Daniel McDade, One Penn Station, New York, New York

10001; MTA Police Officer Robert A. Aronson, One Penn Station, New York, New York  
10001; New York City Police Officer Sargent Gaudino, New York City Police Department  
Truck No.1; New York City Police Officer Perez, Shield No.: 2060, New York City Police  
Department Truck No.: 1; New York City Police Wendler, Shield No.: 2802, New York City  
Police Department Truck No.: 1; MTA Police Officer Interdonati, MTA Police Department,  
Penn Station, New York ; MTA Police Officer Tully, MTA Police Department, Penn Station,  
New York, New York; MTA Police Officer Smith, MTA Police Department, Penn Station,  
New York; MTA Police Officer Prego, MTA Police Department, Penn Station, New York;  
MTA Police Sargent Dittrich, MTA Police Department, Penn Station, New York, New York;  
MTA Police Officer Lieutenant Nutter, MTA Police Department, Penn Station, New York.

(B) **Documents**

Exhibit "A" Incident Report MTA Police Department 06-02112 (13 pages)

Exhibit "B" Supplements to Incident Report/MTA Police Department 06-12112 (3  
pages).

(C) **Damages/Computations**. Not applicable to defendants.

(D) **Insurance.** All defendants herein are self-insured via the Metropolitan Transportation Authority.

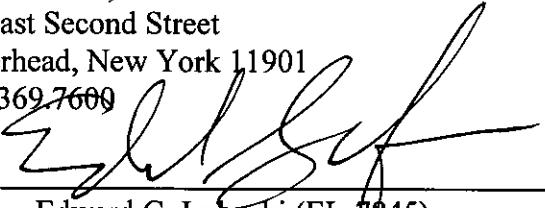
Dated: Riverhead, New York  
January 30, 2008

Yours, etc.

LEWIS JOHS AVALLONE AVILES, LLP  
Attorneys for Defendants  
METROPOLITAN TRANSPORTATION AUTHORITY, METROPOLITAN TRANSPORTATION AUTHORITY POLICE DEPARTMENT, LONG ISLAND RAILROAD d/b/a MTA LONG ISLAND RAILROAD, LONG ISLAND RAILROAD POLICE DEPARTMENT, PO ROBERT ARONSON - shield 02300, PO DANIEL MCDADE - shield 2020, and "JOHN DOES" (names not known and fictitious) - Police Officers

21 East Second Street  
Riverhead, New York 11901  
631.369.7600

By:

  
Edward G. Lukoski (EL-7845)

TO:

JOSEPH T. MULLEN, JR. & ASSOCIATES  
Attorneys for Plaintiff  
30 Vesey Street, 15<sup>th</sup> Floor  
New York, New York 10007  
212.766.1177

MICHAEL A. CARDOZO,  
Corporation Counsel of the City of New York  
Attorneys for Defendants  
CITY OF NEW YORK and NEW YORK CITY  
POLICE DEPARTMENT  
100 Church Street  
Room 3-199  
New York, New York 10007  
Att: Carolyn Chen, Esq.



## M.T.A. POLICE DEPARTMENT

345 MADISON AVENUE

9TH FLOOR

Reported Date

09/13/2006

Nature of Call

ASSAULT

Officer

MCDADE, DANIEL F

(212) 878-1000

16-12112

## Administrative Information

Agency <b>M. T.A. POLICE DEPARTMENT</b>	Case No <b>06-12112</b>	Supplement No <b>ORIG</b>	Reported Date <b>09/13/2006</b>	Reported Time <b>01:11</b>	CAD Call No <b>062560009</b>						
Status <b>ARREST MADE</b>	Nature of Call <b>ASSAULT</b>	Location <b>30 PENN STATION</b>									
City <b>MANHATTAN</b>	Rep Dist <b>MPST02</b>	County <b>MANHATTAN</b>	Beat <b>NA</b>	From Date <b>09/13/2006</b>	From Time <b>00:20</b>	To Date <b>09/13/2006</b>	To Time <b>00:28</b>				
Officer <b>M86596/MCDADE, DANIEL F</b>			Assignment <b>DISTRICT 4 B TOUR</b>		2nd Officer <b>ARONSON, ROBERT A</b>						
Assignment <b>DISTRICT 4 B TOUR</b>	Entered by <b>D86418</b>	Assignment <b>PATROL SERGEANT</b>	RMS Transfer <b>Successful</b>	Property? <b>None</b>	Transit ID <b>NONE</b>						
Org Nature of Call <b>1013</b>	CTV <b>County of New York</b>	Approving Officer <b>D86418</b>		Approval Date <b>09/15/2006</b>							
Approval Time <b>03:39:54</b>											
COPY TO IAB (RECORD USE ONLY)		NYSPIN CK MADE-NO HIT		OC DISCHGEO-COPY TO TRN							
<b>Yes</b>		<b>Yes</b>		<b>Yes</b>							
# Offenses <b>1</b>	Offense <b>NY PL 120.10 CF1</b>			Description <b>ASSAULT-1ST</b>			Complaint Type	<b>C</b>	Use <b>0</b>	Bias <b>77</b>	Loc <b>06</b>
#Pr MOE	Act <b>88</b>	Weapon/Force <b>13A</b>	No <b>1</b>	Theft Type							
# Offenses <b>2</b>	Offense <b>NY PL 120.08 CF0</b>			Description <b>ASLT: POLICE OFF/FIRE</b>			Complaint Type	<b>C</b>	Use <b>0</b>	Bias <b>77</b>	Loc <b>06</b>
#Pr MOE	Act <b>88</b>	Weapon/Force <b>13A</b>	No <b>2</b>	Theft Type							
# Offenses <b>3</b>	Offense <b>NY PL 120.05 03 DF2</b>			Description <b>ASLT W/INT CAUS PH I</b>			Complaint Type	<b>C</b>	Use <b>0</b>	Bias <b>77</b>	Loc <b>06</b>
#Pr MOE	Act <b>88</b>	Weapon/Force <b>13A</b>	No <b>3</b>	Theft Type							
# Offenses <b>4</b>	Offense <b>NY PL 205.30 AM0</b>			Description <b>RESISTING ARREST</b>			Complaint Type	<b>C</b>	Use <b>0</b>	Bias <b>77</b>	Loc <b>06</b>
#Pr MOE	Act <b>90Z</b>	Weapon/Force <b>90Z</b>	No <b>4</b>	Theft Type							
# Offenses <b>5</b>	Offense <b>NY PL 240.20 01 OVO</b>			Description <b>DIS/CON:FIGHT/VIOLEN</b>			Complaint Type	<b>C</b>	Use <b>0</b>	Bias <b>77</b>	Loc <b>06</b>
#Pr MOE	Act <b>90C</b>	Weapon/Force <b>90C</b>	No <b>5</b>	Theft Type							
# Offenses <b>6</b>	Offense <b>NY PL 240.20 02 OVO</b>			Description <b>DIS/CON:UNREASONABLE</b>			Complaint Type	<b>C</b>	Use <b>0</b>	Bias <b>77</b>	Loc <b>06</b>
#Pr MOE	Act <b>90C</b>	Weapon/Force <b>90C</b>	No <b>6</b>	Theft Type							
# Offenses <b>7</b>	Offense <b>NY PL 240.20 03 OVO</b>			Description <b>DIS/CON:OBSCENE LANG</b>			Complaint Type	<b>C</b>	Use <b>0</b>	Bias <b>77</b>	Loc <b>06</b>
#Pr MOE	Act <b>90C</b>	Weapon/Force <b>90C</b>	No <b>7</b>	Theft Type							

## Person Summary

Invl	Invl No	Type	Name	MNI	Race	Sex	DOB
*EM	<b>1</b>	<b>I</b>	<b>WALLACE</b>	<b>343111</b>	<b>W</b>	<b>M</b>	
*EM	<b>2</b>	<b>I</b>	<b>RAMOS</b>	<b>343113</b>	<b>U</b>	<b>M</b>	
*PD	<b>1</b>	<b>L</b>	<b>SGT GLAUDINO</b>	<b>MNI</b>	<b>U</b>	<b>M</b>	
*PD	<b>2</b>	<b>L</b>	<b>PO PEREZ</b>	<b>MNI</b>	<b>U</b>	<b>M</b>	

Report Officer <b>M86596/MCDADE, DANIEL F</b>	Printed At <b>01/08/2007 10:58</b>	Page 1 of 13
Supervisor Signature		

# Incident Report

## M.T.A. POLICE DEPARTMENT

### Person Summary

Invl *PD	Invl No 3	Type L	Name PO WENDLER	MNI	Race W	Sex M	DOB
Invl AID	Invl No 1	Type L	Name PO MCDADE	MNI	Race W	Sex M	DOB
Invl ARO	Invl No 1	Type L	Name PO ARONSON	MNI	Race W	Sex M	DOB
Invl ARR	Invl No 1	Type I	Name BAIN, STEPHEN O	MNI 343110	Race W	Sex M	DOB 07/11/1977
Invl ASO	Invl No 1	Type L	Name PO INTERDONATI	MNI	Race W	Sex M	DOB
Invl ASO	Invl No 2	Type L	Name PO TULLY	MNI	Race W	Sex M	DOB
Invl ASO	Invl No 3	Type L	Name PPO SMITH	MNI 343112	Race W	Sex M	DOB
Invl ASO	Invl No 4	Type L	Name PO PREGO	MNI	Race W	Sex M	DOB
Invl PSV	Invl No 1	Type L	Name SGT DITTRICH	MNI	Race W	Sex M	DOB
Invl PSV	Invl No 2	Type L	Name SGT SMITH	MNI	Race W	Sex M	DOB
Invl PSV	Invl No 3	Type L	Name LT NUTTER	MNI	Race W	Sex M	DOB
Invl VIC	Invl No 1	Type S	Name PSNY	MNI 343114	Race	Sex	DOB

### Vehicle Summary

Invl	Type	License No	State	Lic Year	Year	Make	Model	Style	Color
AMB	O	08C	NY	2006		*AMB		AM	

### Summary Narrative

Arrest of one male for assaulting a police officer resulting in physical injury at Penn Station. Member of service received injuries to left leg and head. Injured prisoner received lacerations to face and OC spray exposure. Injured member of service and injured prisoner removed to hospital for treatment.

**Incident Report****M.T.A. POLICE DEPARTMENT****EMS PERSONNEL - GENERAL 1: WALLACE**

Involvement <b>EMS PERSONNEL - GENERAL</b>	Seq 1	Type <b>INDIVIDUAL</b>	Name <b>WALLACE</b>
MNI <b>343111</b>	Race <b>WHITE</b>	Sex <b>MALE</b>	

Type <b>EMS/FIRE ID NUMBER (SHIELD-ETC)</b>	ID No <b>6943</b>
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Employer/School <b>EMS</b>	Position/Grade <b>EMT</b>
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**EMS PERSONNEL - GENERAL 2: RAMOS**

Involvement <b>EMS PERSONNEL - GENERAL</b>	Seq 2	Type <b>INDIVIDUAL</b>	Name <b>RAMOS</b>
MNI <b>343113</b>	Race <b>UNKNOWN</b>	Sex <b>MALE</b>	

**LAW ENFORCEMENT-GENERAL 1: SGT GLAUDINO**

Involvement <b>LAW ENFORCEMENT-GENERAL</b>	Seq 1	Type <b>LAW ENFORCEMENT OFFICER IN LINE OF DUTY</b>	
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Name <b>SGT GLAUDINO</b>	Race <b>UNKNOWN</b>	Sex <b>MALE</b>
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Type <b>PD SHIELD</b>	ID No <b>744</b>
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Employer/School <b>NEW YORK CITY POLICE DEPT</b>	Position/Grade <b>ESU SGT</b>
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Location <b>TRUCK # 1</b>	
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**LAW ENFORCEMENT-GENERAL 2: PO PEREZ**

Involvement <b>LAW ENFORCEMENT-GENERAL</b>	Seq 2	Type <b>LAW ENFORCEMENT OFFICER IN LINE OF DUTY</b>	
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Name <b>PO PEREZ</b>	Race <b>UNKNOWN</b>	Sex <b>MALE</b>
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Type <b>PD SHIELD</b>	ID No <b>2060</b>
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Employer/School <b>NEW YORK CITY POLICE DEPT</b>	Position/Grade <b>ESU PO</b>
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Location <b>TRUCK # 1</b>	
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**LAW ENFORCEMENT-GENERAL 3: PO WENDLER**

Involvement <b>LAW ENFORCEMENT-GENERAL</b>	Seq 3	Type <b>LAW ENFORCEMENT OFFICER IN LINE OF DUTY</b>	
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Name <b>PO WENDLER</b>	Race <b>WHITE</b>	Sex <b>MALE</b>
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Type <b>PD SHIELD</b>	ID No <b>2802</b>
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Employer/School <b>NEW YORK CITY POLICE DEPT</b>	Position/Grade <b>ESU PO</b>
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Location <b>TRUCK # 1</b>	
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**AIDED 1: PO MCDADE**

Involvement <b>AIDED</b>	Seq 1	Type <b>LAW ENFORCEMENT OFFICER IN LINE OF DUTY</b>	
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Name <b>PO MCDADE</b>	Race <b>WHITE</b>	Sex <b>MALE</b>
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Type <b>PD SHIELD</b>	ID No <b>2020</b>
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Employer/School <b>MTA POLICE DEPT</b>	Position/Grade <b>OFFICER</b>
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Location <b>PENN STA</b>	City <b>MANHATTAN</b>	State <b>NEW YORK</b>	Phone Type <b>BUSINESS</b>
-----------------------------	--------------------------	--------------------------	-------------------------------

Phone No  
**(212) 643-5075**

Report Officer <b>M86596/MCDADE, DANIEL F</b>	Printed At <b>01/08/2007 10:58</b>	<b>Page 3 of 13</b>
Supervisor Signature		

# Incident Report

## M.T.A. POLICE DEPARTMENT

### Medical

Injury Place <b>30 PENN STATION</b>	Injury Date <b>09/13/2006</b>	Injury Time <b>00:20:00</b>	Injured At Work? <b>Yes</b>
Location/Type of Injury <b>SEVERE PAIN/SWELLING TO LEFT LEG/ANKLE - SWELLING TO FOREHEAD</b>			
How Injured <b>RCVD DURING ARREST PROCESS IN WHICH PERP DID ASSAULT OFFICER/PUSH DOWN STAIRS</b>			

### ARRESTING OFFICER 1: PO ARONSON

Involvement <b>ARRESTING OFFICER</b>	Seq <b>1</b>	Type <b>LAW ENFORCEMENT OFFICER IN LINE OF DUTY</b>
Name <b>PO ARONSON</b>	Race <b>WHITE</b>	Sex <b>MALE</b>
Type <b>PD SHIELD</b>	ID No <b>2300</b>	
Employer/School <b>MTA POLICE DEPT</b>		Position/Grade <b>OFFICER</b>
Location <b>PENN STA</b>		City <b>MANHATTAN</b>
Phone No <b>(212) 643-5075</b>		State <b>NEW YORK</b>
		Phone Type <b>BUSINESS</b>

### ARRESTED PERSON 1: BAIN,STEPHEN O

Involvement <b>ARRESTED PERSON</b>	Seq <b>1</b>	Type <b>INDIVIDUAL</b>	Name <b>BAIN,STEPHEN O</b>	MNI <b>343110</b>				
Race <b>WHITE</b>	Sex <b>MALE</b>	DOB <b>07/11/1977</b>	Age <b>29</b>	Ethnicity <b>NON HISPANIC</b>	Juvenile? <b>No</b>	Height <b>5'09"</b>	Weight <b>175#</b>	To Weight <b>200#</b>
Hair Color <b>BLONDE/ STRAWBERRY</b>		Eye Color <b>HAZEL</b>		Skin <b>FAIR</b>	Means of Attack <b>HANDS/FIST/FEET/ETC.</b>			
Extent of Injury <b>APPEARED TO BE SERIOUSLY INJURED</b>				Dom Violence <b>No</b>	Gen Appearance <b>CASUAL/CLEAN</b>		Build <b>MUSCULAR</b>	
Hair Description <b>MESSY/UNKEPT/STRAIGHT</b>		Speech <b>LOUD</b>		Demeanor <b>ANGRY/IRRATIONAL</b>				
Body Clothing <b>SHIRT/PANTS</b>				Att Res Status <b>RESIDENT</b>	OFN_INVL <b>1</b>			

Offender Cond

**APPEARS TO BE IMPAIRED WITH ALCOHOL**

Type <b>HOME ADDRESS</b>	Address <b>119 KELVIN AVE</b>			City <b>STATEN ISLAND</b>	
State <b>NEW YORK</b>	ZIP Code <b>10306</b>				
Type <b>OPERATOR LICENSE/STATE ID CARD</b>	ID No <b>323357316</b>			OLS <b>NEW YORK</b>	
Description of Shirt <b>RED SHIRT</b>	Description of Pants <b>BLUE DENIM JEANS</b>				
Involvement <b>SUMMARY ARREST</b>	Arrest Type <b>CRIME IN PROGRESS</b>	Arrest Date <b>09/13/2006</b>	Arrest Time <b>00:25:00</b>	Booking No <b>06-9073</b>	Status <b>HELD</b>
Arrest Location <b>30 PENN STATION</b>	City <b>MANHATTAN</b>			Fingerprt Taken? <b>Yes</b>	Mug? <b>Yes</b>

Armed

**NOT REPORTED**

Charge <b>NY PL 120.10</b>	Charge Literal <b>CF1</b>	Charge Literal <b>ASSAULT-1ST</b>	A/C <b>C</b>
Charge <b>NY PL 120.08</b>	Charge Literal <b>CF0</b>	Charge Literal <b>ASLT: POLICE OFF/FIRE</b>	A/C <b>C</b>
Charge <b>NY PL 120.05</b>	03	Charge Literal <b>DF2</b>	A/C <b>C</b>
Charge <b>NY PL 205.30</b>		Charge Literal <b>AM0</b>	A/C <b>C</b>
Charge <b>NY PL 240.20</b>	01	Charge Literal <b>OVO</b>	A/C <b>C</b>
Charge <b>NY PL 240.20</b>	02	Charge Literal <b>OVO</b>	A/C <b>C</b>
		Charge Literal <b>DIS/CON: FIGHT/VIOLEN</b>	
		Charge Literal <b>DIS/CON: UNREASONABLE</b>	

Report Officer <b>M86596/MCDADE, DANIEL F</b>	Printed At <b>01/08/2007 10:58</b>	Page 4 of 13
Supervisor Signature		

## M.T.A. POLICE DEPARTMENT

## Medical

Injury Place <b>30 PENN STATION</b>	Injury Date <b>09/13/2006</b>	Injury Time <b>00:20:00</b>	Injured At Work? <b>No</b>
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Location/Type of Injury  
**LACERATIONS TO FACE / O.C. SPRAY EXPOSURE TO FACE**

How Injured

**RCVD WHILE RESISTING ARREST - SUBJECT SPRAY WITH 10% OC SPRAY & FELL DOWN  
STAIRS**

## ASSISTING OFFICER 1: PO INTERDONATI

Involvement <b>ASSISTING OFFICER</b>	Seq <b>1</b>	Type <b>LAW ENFORCEMENT OFFICER IN LINE OF DUTY</b>			
Name <b>PO INTERDONATI</b>		Race <b>WHITE</b>	Sex <b>MALE</b>		
Type <b>PD SHIELD</b>	ID No <b>2481</b>				
Employer/School <b>MTA POLICE DEPT</b>		Position/Grade <b>OFFICER</b>			
Location <b>PENN STA</b>		City <b>MANHATTAN</b>		State <b>NEW YORK</b>	Phone Type <b>BUSINESS</b>
Phone No <b>(212) 643-5075</b>					

## ASSISTING OFFICER 2: PO TULLY

Involvement <b>ASSISTING OFFICER</b>	Seq <b>2</b>	Type <b>LAW ENFORCEMENT OFFICER IN LINE OF DUTY</b>			
Name <b>PO TULLY</b>		Race <b>WHITE</b>	Sex <b>MALE</b>		
Type <b>PD SHIELD</b>	ID No <b>2090</b>				
Employer/School <b>MTA POLICE DEPT</b>		Position/Grade <b>OFFICER</b>			
Location <b>PENN STA</b>		City <b>MANHATTAN</b>		State <b>NEW YORK</b>	Phone Type <b>BUSINESS</b>
Phone No <b>(212) 643-5075</b>					

## ASSISTING OFFICER 3: PPO SMITH

Involvement <b>ASSISTING OFFICER</b>	Seq <b>3</b>	Type <b>LAW ENFORCEMENT OFFICER IN LINE OF DUTY</b>			
Name <b>PPO SMITH</b>		MNI <b>343112</b>	Race <b>WHITE</b>	Sex <b>MALE</b>	
Type <b>PD SHIELD</b>	ID No <b>2565</b>				
Employer/School <b>MTA POLICE DEPT</b>		Position/Grade <b>OFFICER</b>			
Location <b>PENN STA</b>		City <b>MANHATTAN</b>		State <b>NEW YORK</b>	Phone Type <b>BUSINESS</b>
Phone No <b>(212) 643-5075</b>					

## ASSISTING OFFICER 4: PO PREGO

Involvement <b>ASSISTING OFFICER</b>	Seq <b>4</b>	Type <b>LAW ENFORCEMENT OFFICER IN LINE OF DUTY</b>			
Name <b>PO PREGO</b>		Race <b>WHITE</b>	Sex <b>MALE</b>		
Type <b>PD SHIELD</b>	ID No <b>2280</b>				
Employer/School <b>MTA POLICE DEPT</b>		Position/Grade <b>OFFICER</b>			
Location <b>PENN STA</b>		City <b>MANHATTAN</b>		State <b>NEW YORK</b>	Phone Type <b>BUSINESS</b>
Phone No <b>(212) 643-5075</b>					

**M.T.A. POLICE DEPARTMENT****PATROL SUPERVISOR 1: SGT DITTRICH**

Involvement <b>PATROL SUPERVISOR</b>	Seq 1	Type <b>LAW ENFORCEMENT OFFICER IN LINE OF DUTY</b>
Name <b>SGT DITTRICH</b>	Race WHITE	Sex MALE
Type <b>PD SHIELD</b>	ID No 393	
Employer/School <b>MTA POLICE DEPT</b>		Position/Grade <b>SERGEANT</b>
Location <b>PENN STA</b>		City <b>MANHATTAN</b>
Phone No (212) 643-5075		State <b>NEW YORK</b>
		Phone Type <b>BUSINESS</b>

**PATROL SUPERVISOR 2: SGT SMITH**

Involvement <b>PATROL SUPERVISOR</b>	Seq 2	Type <b>LAW ENFORCEMENT OFFICER IN LINE OF DUTY</b>
Name <b>SGT SMITH</b>	Race WHITE	Sex MALE
Type <b>PD SHIELD</b>	ID No 303	
Employer/School <b>MTA POLICE DEPT</b>		Position/Grade <b>SERGEANT</b>
Location <b>PENN STA</b>		City <b>MANHATTAN</b>
Phone No (212) 643-5075		State <b>NEW YORK</b>
		Phone Type <b>BUSINESS</b>

**PATROL SUPERVISOR 3: LT NUTTER**

Involvement <b>PATROL SUPERVISOR</b>	Seq 3	Type <b>LAW ENFORCEMENT OFFICER IN LINE OF DUTY</b>
Name <b>LT NUTTER</b>	Race WHITE	Sex MALE
Type <b>PD SHIELD</b>	ID No 12	
Employer/School <b>MTA POLICE DEPT</b>		Position/Grade <b>LIEUTENANT</b>
Location <b>PENN STA</b>		City <b>MANHATTAN</b>
Phone No (212) 643-5075		State <b>NEW YORK</b>
		Phone Type <b>BUSINESS</b>

**VICTIM/COMPLAINANT 1: PSNY**

Involvement <b>VICTIM/COMPLAINANT</b>	Seq 1	Type <b>SOCIETY/PUBLIC/PSNY</b>	Name <b>PSNY</b>
MNI <b>343114</b>			

**IBRS Info**

Victim Seq 1	Offense Codes 1/2/3/4/5/6/7
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**Vehicle: 08C**

Involvement <b>AMBULANCE - GENERAL</b>	Type <b>AMBULANCE</b>	License No 08C	State <b>NEW YORK</b>	Lic Year 2006	Lic Type <b>AMBULANCE</b>
Make <b>AMBULANCE - GENERAL</b>	Style <b>AMBULANCE</b>				

**Modus Operandi**

Gang Act? <b>NO</b>	Weapon Used <b>PHYSICAL-HANDS-FEET-FISTS</b>	Premise Type <b>LIRR PROP-OPEN TO PUBLIC</b>	Victim's Race <b>WHITE</b>	Victim's Sex <b>MALE</b>
Victim's Age <b>17 - 25 YEARS IF AGE</b>	Vulnerability <b>POLICE OFFICER</b>	Victim's Action <b>ON STAIRS</b>		

**Suspect Action**  
**SPIT AT VICTIM OR WITNESS/STRUCK VICTIM/MADE THREATS**

**Crime Code(s)**  
**ASSAULT**

Report Officer <b>M86596/MCDADE, DANIEL F</b>	Printed At <b>01/08/2007 10:58</b>	Page 6 of 13
Supervisor Signature		

**M.T.A. POLICE DEPARTMENT****Narrative**

On 9/13/06 at approximately 0020 hours, PO McDade and PO Aronson did observe a male subject, later identified as Stephen Bain, shouting profanities in the 8th Avenue Concourse of Penn Station. Officers further observed the male subject aggressively approach a male subject not known to him and attempt to physically assault him. Officers initially approached the subject and advised him to depart the area. The subject was not compliant with the officer's request to depart the area. Upon approaching the subject again, the subject was advised that he was under arrest at which time he fled on foot away from the officers in the vicinity of track # 17. PO McDade and PO Aronson attempted to place the subject under arrest at which time the subject did resist by flailing his arms and body and intentionally shoving the officer. PO McDade and the subject fell down the stair case of track # 17 descending to the first landing of the stair case where the subject continued to physically resist and assault the officer with a closed fist. A physical struggle continued on the first stair case landing causing both PO McDade and the subject to fall down the second portion of the stair case onto the platform of track # 17. PO McDade utilized his department issued OC spray on the subject as the subject was failing to comply with verbal commands and was continuing to physically resist. PO McDade transmitted an emergency request for assistance ("10-85") over his department radio. Upon arrival of assisting officers, the subject was physically subdued and successfully handcuffed.

PO McDade suffered injuries to his left ankle, left leg, and to his forehead. PO McDade complained of severe pain and immediate swelling was evident to his left ankle, left leg (below knee/shin), and forehead. PO McDade was unable to stand up on his own and unable to move his left leg. EMS was requested and responded to the platform of track # 17 to render aid to the injured member of service. PO McDade was removed to Bellevue Hospital by ambulance for further care and evaluation. Sgt. Richard Smith accompanied PO McDade in the ambulance to Bellevue Hospital.

The prisoner, Stephen Bain, was removed to District # 4 for processing. Upon placement into the District # 4 cell area, prisoner began to spit and flail his body striking himself on the floor, bench, and walls. Prisoner was handcuffed to the bench and ankle cuffs were placed to prevent further kicking. EMS was on scene in District # 4 at 0039 hours. NYPD Emergency Services Unit was requested for the violent prisoner whom was acting emotionally disturbed and/or under the influence of drugs and/or alcohol. NYPD Emergency Services Unit Truck # 1 responded to District # 4 at 0055 hours and flushed the prisoner's eyes with water for the OC spray exposure. They further subdued the prisoner with a restraining device. Prisoner was placed on a stretcher and removed to Bellevue Hospital by ambulance (ambulance # 08C, EMT # 6943) for further care and observation. PO Tully and PO Interdonati escorted the prisoner with EMS to Bellevue Hospital.

A telephone notification was made to Lieutenant Kevin Hoban of the MTAPD Internal Affairs Bureau. MTAPD Communications placed a telephone page notification to Inspector Kevin King, Commanding Officer of District # 4.

A Worker's Compensation package was completed for the injured member of service, PO McDade. A custodial injury package was completed for the injured prisoner.

MTAPD Arrest # 9073

NYPD Arrest # M06002101P, NYPD Fax # MO058956

Incident Report  
**M.T.A. POLICE DEPARTMENT****96-12112****Images**

**Incident Report**

Case 4:07-cv-08021-VM

Document 5

Filed 01/31/2008

**06-12112**Supplement No  
Page 23 of 25 ORIG**M.T.A. POLICE DEPARTMENT****Images**

Date	Time	Officer	Type	Description
09/15/2006	03:33:36	D86418		CLOSEUP FACE PHOTO OF PRISONER'S INJURY



Report Officer

**M86596/MCDADE, DANIEL F**

Supervisor Signature

Printed At

01/08/2007 10:58

**Page 9 of 13**

## M.T.A. POLICE DEPARTMENT

## Images



M.T.A. POLICE DEPARTMENT

Images

Date	Time	Officer	Type	Description
09/15/2006	03:35:56	D86418		PRISONER'S LEFT FACE PROFILE



## M.T.A. POLICE DEPARTMENT

## Images

Date	Time	Officer	Type	Description
09/15/2006	03:36:52	D86418		PRISONER'S RIGHT FACE PROFILE



**Incident Report**

Case 1:07-cv-08021-VM

Document 5

Filed 01/31/2008

**06-12412**Supplement No  
ORIG**M.T.A. POLICE DEPARTMENT****Images**

Date	Time	Officer	Type	Description
09/15/2006	03:37:47	D86418		PRISONER'S FRONT FACE PHOTO



Report Officer

**M86596/MCDADE, DANIEL F**

Supervisor Signature

Printed At

01/08/2007 10:58

**Page 13 of 13**

**Incident Report**

Case 1:07-cv-08021-VM

Document 5

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06-12112

Page 12 of 25

Supplement No  
0001**M.T.A. POLICE DEPARTMENT**

345 MADISON AVENUE

9TH FLOOR

Reported Date  
**09/13/2006**  
 Nature of Call  
**ASSALT**  
 Officer  
**GUIDO, DANIEL**

(212) 878-1000

**Administrative Information**

Agency <b>M.T.A. POLICE DEPARTMENT</b>		Case No <b>06-12112</b>	Supplement No <b>0001</b>	Reported Date <b>09/13/2006</b>	Reported Time <b>13:40</b>	CAD Call No <b>062560009</b>
Status <b>ARREST MADE</b>	Nature of Call <b>ASSAULT</b>	Location <b>30 PENN STATION</b>				
City <b>MANHATTAN</b>	Rep Dist <b>MPST02</b>	County <b>MANHATTAN</b>	Beat <b>NA</b>	From Date <b>09/13/2006</b>	From Time <b>00:20</b>	To Date <b>09/13/2006</b>
Officer <b>G86509/GUIDO, DANIEL</b>				Assignment <b>PATROL OFFICER</b>	2nd Officer <b>ARONSON, ROBERT A</b>	To Time <b>00:28</b>
Assignment <b>PATROL OFFICER</b>	Entered by <b>G86509</b>	Assignment <b>PATROL OFFICER</b>	RMS Transfer <b>Supplement Transfer Complete</b>			Prop Trans Stat <b>Pending</b>
Transit ID <b>NONE</b>	Org Nature of Call <b>1013</b>	CTV <b>County of New York</b>	Approving Officer <b>R86170</b>		Approval Date <b>09/17/2006</b>	
Approval Time <b>13:01:36</b>						

**Summary Narrative**

Defendants property vouchered/defendant lodged in MCB.

Item <b>1</b>	Involvement <b>SAFEKEEPING</b>	In Custody? <b>Yes</b>	Tag No <b>E4115</b>	Item No <b>1</b>	Serial No <b>SJUG1726FJ</b>			
Description <b>Gray Motorola cell phone</b>						Typ <b>A</b>	Cat <b>CELLPHONE</b>	Article <b>PHONE</b>
Brand <b>MOTOLA</b>	Model <b>RAZOR</b>	NYSIBR Type <b>OTHER PROPERTY</b>		# Pieces <b>1</b>	RMS Transfer <b>Successful</b>			
Item <b>2</b>	Involvement <b>SAFEKEEPING</b>	In Custody? <b>Yes</b>	Tag No <b>E4155</b>	Item No <b>4</b>				
Description <b>Borgota Hotel Card</b>						Typ <b>A</b>	Cat <b>PERSONAL PAPERS</b>	
Article <b>CARD</b>	Brand <b>HOTEL</b>	NYSIBR Type <b>PERSONAL PAPERS</b>		# Pieces <b>1</b>	RMS Transfer <b>Successful</b>			
Item <b>3</b>	Involvement <b>SAFEKEEPING</b>	In Custody? <b>Yes</b>	Tag No <b>E4115</b>	Item No <b>5</b>				
Description <b>Best Buy Reward Card</b>						Typ <b>A</b>	Cat <b>PERSONAL PAPERS</b>	
Article <b>CARD</b>	NYSIBR Type <b>PERSONAL PAPERS</b>		# Pieces <b>1</b>	RMS Transfer <b>Successful</b>				
Item. <b>4</b>	Involvement <b>SAFEKEEPING</b>	In Custody? <b>Yes</b>	Tag No <b>E4115</b>	Item No <b>6</b>				
Description <b>Business Card</b>						Typ <b>A</b>	Cat <b>PERSONAL PAPERS</b>	
Article <b>CARD</b>	NYSIBR Type <b>PERSONAL PAPERS</b>		# Pieces <b>1</b>	RMS Transfer <b>Successful</b>				
Item <b>5</b>	Involvement <b>SAFEKEEPING</b>	In Custody? <b>Yes</b>	Tag No <b>E4115</b>	Item No <b>2</b>	Serial No <b>4J544CGQTXL</b>			
Description <b>Black Apple Ipod 60 GB</b>						Typ <b>A</b>		
Cat <b>RADIO, STEREO, CD/DVD PLAYER DEVICES ETC</b>						Article <b>IPOD</b>	Brand <b>APPLE</b>	Model <b>IPOD</b>
NYSIBR Type <b>STEREO EQUIPMENT/TV/RADIO</b>			# Pieces <b>1</b>	RMS Transfer <b>Successful</b>				

Report Officer  
**G86509/GUIDO, DANIEL**

Supervisor Signature

Printed At  
**01/08/2007 10:59**

**Page 1 of 2**

**Incident Report**

Case 07-cv-08021-VM

Document 5

Filed 01/31/2008

06-12112

Supplement No  
0001**M.T.A. POLICE DEPARTMENT**

Item <b>6</b>	Involvement <b>SAFEKEEPING</b>	In Custody? <b>Yes</b>	Tag No <b>E4155</b>	Item No <b>3</b>	
Description <b>White Head Phones</b>					Typ <b>A</b>
Cat <b>RADIO, STEREO, CD/DVD PLAYER DEVICES ETC</b>		# Pieces <b>1</b>	RMS Transfer <b>Successful</b>	Article <b>H/PHON</b>	Brand <b>APPLE</b>
NYSIBR Type <b>STEREO EQUIPMENT/TV/RADIO</b>					

**Modus Operandi**

Crime Code(s)

**ASSAULT****Narrative**

Defendant was released from Bellevue Hospital at 1059hrs. Defendant was concluded to be fit for confinement as per Dr. Johnston. Defendant lodged in MCB without further incident. Defendants personal property was vouchered for safekeeping.



**M.T.A. POLICE DEPARTMENT**

345 MADISON AVENUE

9TH FLOOR

Reported Date  
**09/14/2006**  
Nature of Call  
**ASSAULT**  
Officer  
**GUIDO, DANIEL**

(212) 878-1000

**Administrative Information**

Agency <b>M.T.A. POLICE DEPARTMENT</b>		Case No <b>06-12112</b>	Supplement No <b>0002</b>	Reported Date <b>09/14/2006</b>	Reported Time <b>08:14</b>	CAD Call No <b>062560009</b>	
Status <b>ARREST MADE</b>	Nature of Call <b>ASSAULT</b>	Location <b>30 PENN STATION</b>					
City <b>MANHATTAN</b>	Rep Dist <b>MPST02</b>	County <b>MANHATTAN</b>	Beat <b>4J</b>	From Date <b>09/13/2006</b>	From Time <b>00:20</b>	To Date <b>09/13/2006</b>	To Time <b>00:28</b>
Officer <b>G86509/GUIDO, DANIEL</b>			Assignment <b>DISTRICT 4 A TOUR</b>		2nd Officer <b>ARONSON, ROBERT A</b>		
Assignment <b>DISTRICT 4 B TOUR</b>		Entered by <b>G86509</b>	Assignment <b>DISTRICT 4 A TOUR</b>		RMS Transfer <b>Supplement Transfer Complete</b>		
Property?	Transit ID	Org Nature of Call	CTV	Approving Officer			
<b>None</b>	<b>NONE</b>	<b>1013</b>	<b>County of New York</b>	<b>D86418</b>			
Approval Date <b>09/15/2006</b>	Approval Time <b>03:19:50</b>						

**Summary Narrative**

Prisoner removed from Manhattan Central Booking and brought back to Bellevue Hospital for further care/evaluation.

**Narrative**

Unit advised by District #4 supervision at 1550 hours to respond to Manhattan Central Booking and remove prisoner to Bellevue Hospital. Dr. Johnston advised NYPD court personnel that they needed to administer further medical attention. Prisoner brought to Bellevue Hospital without incident.

**M.T.A. POLICE DEPARTMENT**

345 MADISON AVENUE

9TH FLOOR

Reported Date  
**09/13/2006**  
 Nature of Call  
**ASSAULT**  
 Officer  
**RIKER, ERIC S**

(212) 878-1000

**Administrative Information**

Agency <b>M.T.A. POLICE DEPARTMENT</b>	Case No <b>06-12112</b>	Supplement No <b>0003</b>	Reported Date <b>09/13/2006</b>	Reported Time <b>16:40</b>	CAD Call No <b>062560009</b>		
Status <b>ARREST MADE</b>	Nature of Call <b>ASSAULT</b>	Location <b>1 PENN STATION</b>					
City <b>MANHATTAN</b>	Rep Dist <b>MPST02</b>	County <b>MANHATTAN</b>	Beat <b>NA</b>	From Date <b>09/13/2006</b>	From Time <b>00:20</b>	To Date <b>09/13/2006</b>	To Time <b>00:28</b>
Officer <b>R86169/RIKER, ERIC S</b>				Assignment <b>PATROL LIEUTENANT</b>	2nd Officer <b>ARONSON, ROBERT A</b>		
Assignment <b>PATROL OFFICER</b>	Entered by <b>R86169</b>	Assignment <b>PATROL LIEUTENANT</b>	RMS Transfer <b>Supplement Transfer Complete</b>				
Transit ID <b>NONE</b>	Org Nature of Call <b>1013</b>	CTV <b>County of New York</b>	Approving Officer <b>R86170</b>			Approval Date <b>09/17/2006</b>	
Approval Time <b>13:02:24</b>							

**Summary Narrative**

Bedside arraignment conducted at Bellevue Hospital.

**DISTRICT ATTORNEY 1: LAPORTE**

Involvement <b>DISTRICT ATTORNEY</b>	Seq <b>1</b>	Type <b>GOVERNMENT</b>	Name <b>LAPORTE</b>	MNI <b>288856</b>
RMS Transfer <b>Successful</b>				
Employer/School <b>NEW YORK CITY</b>		Position/Grade <b>JUDGE</b>		
<b>Modus Operandi</b>				
Crime Code(s) <b>ASSAULT</b>				

**Narrative**

On September 15, 2006 at 1430 hours a bedside arraignment was conducted for the Defendant, Stephan Bain, by Judge Laporte at Bellevue Hospital. The defendant was released on his own recognizance. Prisoner watch concluded.

Report Officer <b>R86169/RIKER, ERIC S</b>	Printed At <b>01/08/2007 10:59</b>	Page 1 of 1
Supervisor Signature		

# Incident Report

## M.T.A. POLICE DEPARTMENT

345 MADISON AVENUE  
9TH FLOOR

Reported Date  
**09/20/2006**  
Nature of Call  
**ASSAULT**  
Officer  
**DEPOLA, JAMES**

(212) 878-1000

### Administrative Information

Agency <b>M. T. A. POLICE DEPARTMENT</b>	Case No <b>06-12112</b>	Supplement No <b>0004</b>	Reported Date <b>09/20/2006</b>	Reported Time <b>09:33</b>	CAD Call No <b>062560009</b>
Status <b>ARREST MADE</b>	Nature of Call <b>ASSAULT</b>	Location <b>30 PENN STATION</b>			
City <b>MANHATTAN</b>	Rep Dist <b>MPST02</b>	County <b>MANHATTAN</b>	Beat <b>NA</b>	From Date <b>09/13/2006</b>	From Time <b>00:20</b>
Officer <b>D86127/DEPOLA, JAMES</b>			Assignment <b>DETECTIVE DIVISION</b>	2nd Officer <b>ARONSON, ROBERT A</b>	
Assignment <b>PATROL OFFICER</b>	Entered by <b>D86127</b>	Assignment <b>DETECTIVE DIVISION</b>	Confidential <b>CONFIDENTIAL DETECTIVE REPORT</b>		
RMS Transfer <b>Supplement Transfer Complete</b>	Transit ID <b>NONE</b>	Org Nature of Call <b>1013</b>	CTV <b>County of New York</b>		
Approving Officer <b>R86128</b>	Approval Date <b>10/03/2006</b>	Approval Time <b>09:07:21</b>			
NYSPIN CRIMINAL HISTORY CHECK MADE <b>Yes</b>	NYSPIN - APPROPRIATE FILE MSG SENT <b>Yes</b>				

### Summary Narrative

Assignment: Arrest Enhancement

Subject: Case Assignment

Case Status: Closed - Arrest Enhancement

### Modus Operandi

Crime Code(s)  
**ASSAULT**

### Narrative

On Monday, September 18, 2006 I, Detective DePola was assigned to investigate MTA Incident #06-12112 under DD #06-00828.

The defendant was arrested on September 13, 2006 for assault, disorderly conduct and resisting arrest. An E-Justice Inquiry was conducted and revealed that the defendant has no prior arrest record. A copy of the E-Justice report is enclosed in this case folder. Also, a Tiburon check was also conducted and showed this defendant has had no prior contact with this command.

A file 13 has been sent regarding this arrest and a copy is enclosed in the case folder. No open cases within this command could be linked to this defendant and this case is closed as arrest enhancement.

Case Status: Closed - Arrest Enhancement (AE)

Report Officer <b>D86127/DEPOLA, JAMES</b> Supervisor Signature	Printed At <b>01/08/2007 11:00</b>	<b>Page 1 of 1</b>
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STATE OF NEW YORK )  
                      ) ss.:  
COUNTY OF SUFFOLK )

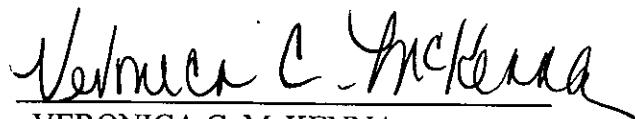
VERONICA C. McKENNA, being duly sworn, deposes and says:

That deponent is not a party to this action, is over 18 years of age and resides in Manorville, New York.

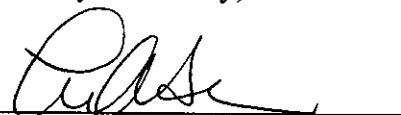
That on the 31<sup>st</sup> day of January, 2008, deponent served the within **INITIAL DISCOVERY FRCP 26(a)(1)** upon the attorneys below set forth representing the parties, as indicated, at the addresses shown, said addresses being designated by said attorneys for that purpose, by depositing a true copy of same, enclosed in a postpaid properly addressed wrapper in an official depository under the exclusive care and custody of the United States Post Office Department within the State of New York.

JOSEPH T. MULLEN, JR. & ASSOCIATES  
30 Vesey Street, 15<sup>th</sup> Floor  
New York, New York 10007  
212.766.1177

MICHAEL A. CARDOZO,  
Corporation Counsel of the City of New York  
Attorneys for Defendants  
CITY OF NEW YORK and NEW YORK CITY  
POLICE DEPARTMENT  
100 Church Street  
Room 3-199  
New York, New York 10007

  
Veronica C. McKenna  
VERONICA C. McKENNA

Sworn to before me this  
31<sup>st</sup> day of January, 2008.

  
\_\_\_\_\_  
Lois A. Skula  
Notary Public, State of New York  
Registration No.: 4966255  
Qualified in Suffolk County  
Commission Expires :May 1, 2010

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

Year 20

STEPHEN BAIN,

Plaintiff,

- against -

THE CITY OF NEW YORK, THE NEW YORK CITY POLICE DEPARTMENT, METROPOLITAN TRANSPORTATION AUTHORITY, METROPOLITAN TRANSPORTATION POLICE DEPARTMENT, LONG ISLAND RAILROAD d/b/a MTA LONG ISLAND RAILROAD, LONG ISLAND RAILROAD POLICE DEPARTMENT, PO ROBERT ARONSON - shield 02300, PO DANIEL MCDADE - shield 2020, and "JOHN DOES" (names not known and fictitious)- POLICE OFFICERS,

Defendant.

***Initial Discovery FRCP 26(a)(1)***

**LEWIS JOHS**  
Lewis Jobs Aviles, LLP

Counselors at Law

Attorneys for

*Office and Post Office Address*  
21 East Second Street • Riverhead, NY 11901  
631.369.7600 • Fax 631.369.7680  
FILE #: \_\_\_\_\_

**CERTIFICATION PURSUANT TO 22 N.Y.C.R.R. § 130-1.1a**

The undersigned hereby certifies that, pursuant to 22 N.Y.C.R.R. § 130-1.1a, the contentions contained in the annexed document(s) is not frivolous nor frivolously presented

Service of a copy of the within

is hereby admitted.

Dated,

Attorney(s) for

Sir: Please take notice

NOTICE OF ENTRY

that the within is a (*certified*) true copy of a  
duly entered in the office of the clerk of the within named court on

20

NOTICE OF SETTLEMENT

that an order

settlement to the HON.

of the within named court, at

on

20

at

M.

of which the within is a true copy will be presented for  
one of the judges

Dated,

*Yours, etc.*

**LEWIS JOHS**